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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/719,183

03/16/2001

Robert W. Kreis

CV-0275

5218

26079

7590

11/16/2009

CONVATEC INC.

100 HEADQUARTERS PARK DRIVE

SKILLMAN, NJ 08558

EXAMINER

SHEIKH, HUMERA N

ART UNIT

PAPER NUMBER

1615

MAIL DATE

DELIVERY MODE

11/16/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 09/719,183</p>	<p>Applicant(s) KREIS ET AL.</p>	
	<p>Examiner Humera N. Sheikh</p>	<p>Art Unit 1615</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 November 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Humera N. Sheikh/
Primary Examiner, Art Unit 1615

Continuation of 3. NOTE: The claims as now amended introduce limitations not previously presented during prosecution and thus, change the scope of the originally-filed claims, requiring further consideration and/or search.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues, "Carlisle does not consider his dressing as a substitute for a biological dressing, but rather as a preparation for it." This was not persuasive since the particular use of the dressing does not impart a patentable distinction over the dressing of Carlisle, which employs the same components as that desired by Applicant. Applicant argues, "Example 1 shows that the dressing remained in place for 14 days, whereas in Carlisle, the emphasis is on the dressing being changed". This was not persuasive since the specific features of Example 1 are not recited in the instant claims; the claims are more generic in scope and do not require any specific time frame with regards to duration of application of the dressing. Moreover, Carlisle states that their wound dressing can be left on the skin for extended periods of time, such as two or more weeks (col. 3, lines 54-67). Applicant's argument that "Carlisle teaches a dressing having limited compressibility, while Dyer's dressing is a foam, which is highly compressible" was not persuasive. Both references are drawn to the same field of endeavor (i.e., absorbent articles for wound dressings). The secondary reference of Dyer, relied upon for demonstrating vertical wicking capacity (i.e., at least about 40 g/g), amply fills the deficiency of Carlisle. Applicant's argument that "Bernardin does not teach vertical wicking in the same sense as it is used in Applicant's claims" was not persuasive since Bernardin is sufficient for their teaching of absorbent webs formed from cellulose fibers, used in dressings, whereby the absorbent webs demonstrate improved vertical wicking properties. Applicant's arguments drawn to "unexpected results of improved vertical wicking properties" was not found persuasive because the prior art in combination also recognizes and teaches wound dressings/absorbent web articles for wound treatment, whereby the dressings/ webs possess improved vertical wicking properties - the same result sought herein by Applicant. Further for the reasons advanced in the Final Office Action dated 07/01/09, Applicant's arguments were not held persuasive.